

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 13th day of July, two thousand eleven.

Before: AMALYA L. KEARSE,
DENNY CHIN,
Circuit Judges,

JED S. RAKOFF, *
District Judge.

APPLIED ENERGETICS, INCORPORATED,

Petitioner-Appellant,

v.

NEWOAK CAPITAL MARKETS, LLC,

Respondent-Appellee.

JUDGMENT

Docket No.: 10-5107

The appeal in the above captioned case from the United States District Court for the Southern District of New York was argued on the district court's record and the parties' briefs. Upon consideration thereof,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the district court's judgment is REVERSED and REMANDED in accordance with the opinion of this court.

FOR THE COURT,
CATHERINE O'HAGAN WOLFE, Clerk



* The Honorable Jed S. Rakoff, United States District Judge for the Southern District of New York, sitting by designation.